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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,650	10/23/2003	Hiroshi Sahara	01306.000119	9168
5514	7590	05/03/2005		EXAMINER
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			LEE, SUSAN SHUK YIN	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	JM
	10/690,650 Examiner Susan S. Lee	SAHARA Art Unit 2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11-13 is/are allowed.
- 6) Claim(s) 1,3-5 and 10 is/are rejected.
- 7) Claim(s) 2,6-9,14 and 15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/21/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Specification***

The abstract of the disclosure is objected to because "means" on page 28, lines 2, 3, 4, 6, and 7 should be avoided in the abstract. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Objections***

Claims 11-13, 14/11, 15/11, 14/12, 15/12, 14/13, and 15/13 are objected to because of the following informalities:

As to claim 11, line 20, "whereby" is unclear because it gives very little patentable weight to "a spacing sufficient to permit curves of the sheet to be formed is formed" since it has been held that the functional "whereby" statement does not define any

structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

. Appropriate correction is required.

### ***Drawings***

Figures 6 and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida (4,914,484) in view of Hokari (5,771,434).

Kida discloses an image bearing member 24; a transfer means 27; a fixing means 39; and a transport guide member 38. The fixing speed is set slightly lower than the transfer speed (note abstract). Note column 5, line 25 – column 7, line 8.

Kida differs from the instant invention by not disclosing a sheet transport guide is capable of forming a plurality of curves on the sheet between the transfer means and the fixing means.

Hokari discloses a sheet guide mechanism 60 and separating protuberances 32 which aid in transporting sheet between the conveying belt 20 and fusing apparatus 40. As to figures 5A and 5B, there is a plurality of curves that are formed on sheet 17 as the sheet is guided towards the fusing apparatus. A gap is formed, as shown in Figs. 5A and 5B, between the sheet guide mechanism 60 and the separating protuberances 32. Note Figs. 5A, 5B; column 5, line 1 – column 6, line 17.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Kida with that of Hokari so that defective transferring and fusing can be prevented as disclosed by Hokari (note column 3, lines 2-14). As to “the sheet transport guide means is capable of forming a plurality of curves on the sheet between the transfer means and the fixing means”, this is considered intended use since it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claims 1, 4, 5, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hokari (5,771,434) in view of Kida (4,914,484).

Hokari discloses a sheet guide mechanism 60 and separating protuberances 32 which aid in transporting sheet between the conveying belt 20 and fusing apparatus 40. As to figures 5A and 5B, there is a plurality of curves that are formed on sheet 17 as the sheet is guided towards the fusing apparatus. A gap is formed, as shown in Figs. 5A and 5B, between the sheet guide mechanism 60 and the separating protuberances 32. Note Figs. 5A, 5B; column 5, line 1 – column 6, line 17. In another embodiment as shown in Fig. 13, a plurality of image bearing means 91, transfer means 95, an intermediate transfer member 97 and a secondary transfer means 98 can be used in the image forming apparatus. Note column 8, line 59 – column 9, line 25.

Hokari differs from the instant invention by not disclosing the speed of the fixing means is less than that of the transfer means.

Kida discloses an image bearing member 24; a transfer means 27; a fixing means 39; and a transport guide member 38. The fixing speed is set slightly lower than the transfer speed (note abstract). Note column 5, line 25 – column 7, line 8.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Hokari with that of Kida so that a toner image on paper can be transferred and fixed in an excellent manner without causing ripples thereon as disclosed by Kida (note column 3, lines 46-50).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakayma et al., Itaya et al., Nishise, and Goto et al. disclose art in paper guides.

***Allowable Subject Matter***

Claims 2, 6-9, 14/5, 15/5, 14/6, 15/6, 14/7, 15/7, 14/8, 15/8, 14/9, 15/9, 14/10, and 15/10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11-13, 14/11, 15/11, 14/12, 15/12, 14/13, and 15/13 are allowed over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan S. Lee whose telephone number is 571-272-2137. The examiner can normally be reached on Mon. - Fri., 10:30-8:00, Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Art Grimley can be reached on 571-272-2136 or 571-272-2800 (Ext. 52). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2852

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan S. Lee  
Primary Examiner  
Art Unit 2852

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